

AMENDED IN ASSEMBLY APRIL 21, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1699

Introduced by Assembly Member Frommer

February 22, 2005

An act to add *and repeal* Article 6.9 (commencing with Section 20209.20) ~~to~~ of Chapter 1 of Part 3 of Division 2 of the Public Contract Code, *and to add Section 149.7 to the Streets and Highways Code*, relating to ~~public contracts~~ *transportation*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1699, as amended, Frommer. ~~Highway—Transportation:~~ *highway construction contracts: design-build projects: HOT lanes.*

(1) Existing law sets forth requirements for the solicitation and evaluation of bids and the awarding of contracts by public entities for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement. Existing law also authorizes specified state agencies, cities, and counties to implement alternative procedures for the awarding of contracts on a design-build basis.

~~This bill would state the intent of the Legislature to authorize certain transportation authorities to use a design-build process for bidding on one highway construction project within the jurisdiction of the applicable transportation authority.~~

This bill would authorize, until January 1, 2015, transportation agencies administering local voter-approved transportation sales tax measures to use a specified design-build process for bidding on a maximum of 8 state highway construction projects with a total cost of \$25,000,000 or more, with the projects to be selected by the California Transportation Commission.

The bill would require design-build entity bidders to provide certain information in a questionnaire submitted to the transportation agency that is verified under oath. Because a verification under oath is made under penalty of perjury, the bill would create a new crime and impose a state-mandated local program. The bill would require a report to the Legislature regarding implementation of the design-build process.

This bill would require the Bureau of State Audits to conduct a preproject and postproject audit of each project and to compare them to similar design-bid-build or design sequencing projects and report the results to the Legislature.

(2) Existing law authorizes the Department of Transportation or local agencies with respect to highways under their respective jurisdictions to designate certain lanes for exclusive use by high-occupancy vehicles (HOVs). Existing law also authorizes specified local agencies to conduct, administer, and operate a value pricing demonstration program in certain corridors, subject to various conditions and requirements, under which single-occupant vehicles may use designated HOV lanes at certain times of day upon obtaining a permit and paying a fee, otherwise known as a “high-occupancy toll (HOT) lane.” Revenues from the fees are used for various transportation purposes.

This bill would authorize any transportation planning agency, or in counties with a county transportation commission or authority, that entity, to conduct a value pricing demonstration program in any state highway corridor with a HOV lane, subject to similar conditions and requirements.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

~~SECTION 1. Article 6.9 (commencing with Section 20209.20) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, to read:~~

SECTION 1. Article 6.9 (commencing with Section 20209.20) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, to read:

*Article 6.9. Transportation Design-Build Collaboration
Contracts*

20209.20. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature, in enacting this article, to demonstrate an alternative and optional procedure for bidding on eight state highway construction projects, each valued at more than twenty-five million dollars (\$25,000,000), to be nominated by self-help transportation agencies in counties where voters have approved increases in local sales taxes through local ballot measures focused on improving, among other things, the state highway system in those counties.

(b) (1) Self-help transportation agencies should be able to utilize cost-effective options for delivery of highway projects, in accordance with the national trend, that includes authorizing public entities to utilize design-build contracts as a project delivery method.

(2) Utilizing a design-build contract requires a clear understanding of the roles and responsibilities of each participant in the design-build process. The benefits of a design-build contract project delivery system include an accelerated completion of the projects, cost containment, reduction of construction complexity, and reduced exposure to risk for the transportation authority.

(3) This approach toward the design-build project delivery method should be evaluated for the purposes of exploring the potential for reduced project costs, expedited project completion, or design features not achievable through the design-bid-build method. A pilot program will allow counties with voter-approved local transportation sales taxes to carefully examine the benefits

1 *and problems of design-build contracting on a limited number of*
2 *projects.*

3 *(c) For the purposes of this pilot program, project sponsors*
4 *will be required to provide at least 50 percent of funding from*
5 *local transportation sales tax measures, and to consult with the*
6 *Department of Transportation and receive approval of the*
7 *California Transportation Commission for the use of the*
8 *design-build procurement method. To preserve competition and*
9 *objectivity in transportation contracting, a competitive bid*
10 *process will be required.*

11 *(d) These projects are subject to the existing process under the*
12 *state transportation improvement program (Chapter 2*
13 *(commencing with Section 14520) of Part 5.3 of Division 3 of the*
14 *Government Code) for planning, programming, environmental*
15 *clearance, and funding. Projects that are either identified in this*
16 *article or ultimately chosen for demonstration of the design-build*
17 *collaboration project delivery method under this article must*
18 *comply with all existing requirements under the state*
19 *transportation improvement program for project development*
20 *and funding. This article shall not confer any type of competitive*
21 *advantage upon the projects in this article, relative to other*
22 *projects subject to the state transportation improvement*
23 *program, during other phases of project development.*

24 *20209.22. For the purposes of this article, the following*
25 *definitions apply:*

26 *(a) "Best value" means a value determined by objective*
27 *criteria, including, but not limited to, price, features, functions,*
28 *life cycle costs, and other criteria deemed appropriate by the*
29 *self-help transportation agency.*

30 *(b) "Design-build" means a procurement process in which*
31 *both the design and construction of a project are procured from*
32 *a single entity.*

33 *(c) "Design-build entity" means a partnership, corporation,*
34 *or other legal entity that is able to provide appropriately licensed*
35 *contracting, architectural, and engineering services as needed*
36 *pursuant to a design-build contract.*

37 *(d) "Self-help transportation agency" or "agency" means a*
38 *transportation agency that administers a transportation*
39 *transactions and use tax in a county where the tax has been*
40 *approved by the voters.*

1 (e) “Department” means the Department of Transportation.

2 20209.23. For the purposes of demonstrating the design-build
3 approach, self-help transportation state agencies may utilize the
4 design-build procurement method for a maximum of eight
5 highway construction projects, provided that each project has a
6 total cost of more than twenty-five million dollars (\$25,000,000).
7 Projects may be nominated by self-help transportation agencies
8 and the California Transportation Commission shall select not
9 more than eight projects from those nominated by the agencies.

10 20209.24. A self-help transportation agency shall implement
11 for design-build projects a labor compliance program as
12 described in Section 1771.5 of the Labor Code, or it shall
13 contract with a third party to implement on the agency’s behalf a
14 labor compliance program subject to that statute. This
15 requirement does not apply to any project where the agency or
16 the design-build entity has entered into any collective bargaining
17 agreement or agreements that bind all of the contractors
18 performing work on the projects.

19 20209.26. Bidding for design-build highway projects shall
20 progress as follows:

21 (a) A self-help transportation agency shall prepare or cause to
22 be prepared, a set of documents setting forth the scope of the
23 project, as set forth in this subdivision. The documents may
24 include, but need not be limited to, the size, type, and desired
25 design character of the project, performance specifications
26 covering the quality of materials, equipment, and workmanship,
27 preliminary plans, and any other information deemed necessary
28 to describe adequately the agency’s needs. The performance
29 specifications and any plans shall be prepared by any design
30 professional who is duly licensed and registered in California.
31 However, any preliminary engineering or project reports shall be
32 performed by professional engineers employed by the
33 department.

34 (b) Based on the documents prepared under subdivision (a),
35 the self-help transportation agency shall prepare a request for
36 qualifications that invites interested parties to submit
37 qualifications in the manner prescribed by the agency. The
38 request for qualifications shall include, but need not be limited
39 to, the following elements:

1 (1) Identification of the basic scope and needs of the project or
2 contract, the expected cost range, the methodology that will be
3 used by the agency to evaluate qualifications, the process for
4 selecting from among prequalified parties the lowest responsible
5 bidder, and any other information deemed necessary by the
6 agency to inform interested parties of the contracting
7 opportunity.

8 (2) Significant factors that the agency reasonably expects to
9 consider in evaluating qualifications, including cost or price
10 lifecycle costs over 15 years or more, technical design and
11 construction expertise, skilled labor force availability, and all
12 other nonprice related factors. As used in this paragraph,
13 “skilled labor force availability” shall be determined by the
14 existence of an agreement with a registered apprenticeship
15 program, approved by the California Apprenticeship Council,
16 that has graduated at least one apprentice in each of the
17 preceding five years. This graduation requirement shall not
18 apply to programs providing apprenticeship training for any
19 craft that was first deemed by the Department of Labor and the
20 Department of Industrial Relations to be an apprenticeable craft
21 within the five years prior to the effective date of this article.

22 (3) The relative importance of the weight assigned to each of
23 the factors identified in the request for qualifications.

24 (4) If the agency reserves the right to hold discussions with
25 prequalified bidders, it shall so specify in the request for
26 qualifications and shall publish separately or incorporate into
27 the request for qualifications applicable rules and procedures to
28 be observed by the agency to ensure that any discussions or
29 negotiations are conducted in good faith.

30 (c) (1) In establishing the procedure to prequalify
31 design-build entities, the agency shall use a standard
32 questionnaire prepared by the agency. In preparing the
33 questionnaire, the agency shall consult with the construction
34 industry, including, but not limited to, representatives of the
35 building trades and surety industry. This questionnaire shall
36 require information including, but not limited to, all of the
37 following:

38 (A) If the design-build entity is a partnership, limited
39 partnership, or other association, a listing of all of the partners,

1 *general partners, or association members known at the time of*
2 *bid submission who will participate in the design-build contract.*

3 *(B) (i) Evidence that the lead member of the design-build*
4 *entity has completed a state highway project in California with a*
5 *value of at least twenty-five million dollars (\$25,000,000) in the*
6 *past 10 years.*

7 *(ii) Evidence that the members of the design-build entity have*
8 *completed, or demonstrated the experience, competency,*
9 *capability, and capacity to complete projects of similar size,*
10 *scope, or complexity, and that proposed key personnel have*
11 *sufficient experience and training to competently manage and*
12 *complete the design and construction of the project, as well as a*
13 *financial statement that assures the agency that the design-build*
14 *entity has the capacity to complete the project.*

15 *(C) The licenses, registration, and credentials required to*
16 *design and construct the project, including, but not limited to,*
17 *information on the revocation or suspension of any license,*
18 *credential, or registration.*

19 *(D) Evidence that establishes that the design-build entity has*
20 *the capacity to obtain all required payment and performance*
21 *bonding, liability insurance, and errors and omissions insurance.*

22 *(E) Information concerning workers' compensation*
23 *experience history and a worker safety program.*

24 *(F) A full disclosure regarding all of the following that are*
25 *applicable:*

26 *(i) Any serious or willful violation of Part 1 (commencing with*
27 *Section 6300) of Division 5 of the Labor Code or the federal*
28 *Occupational Safety and Health Act of 1970 (Public Law*
29 *91-596), settled against any member of the design-build entity.*

30 *(ii) Any debarment, disqualification, or removal from a*
31 *federal, state, or local government public works project.*

32 *(iii) Any instance where the design-build entity, or its owners,*
33 *officers, or managing employees submitted a bid on a public*
34 *works project and were found to be nonresponsive, or were found*
35 *by an awarding body not to be a responsible bidder.*

36 *(iv) Any instance where the design-build entity, or its owners,*
37 *officers, or managing employees defaulted on a construction*
38 *contract.*

39 *(v) Any violations of the Contractors' State License Law, as*
40 *described in Chapter 9 (commencing with Section 7000) of*

1 *Division 3 of the Business and Professions Code, excluding*
2 *alleged violations of federal or state law regarding the payment*
3 *of wages, benefits, apprenticeship requirements, or personal*
4 *income tax withholding, or Federal Insurance Contribution Act*
5 *(FICA) withholding requirements settled against any member of*
6 *the design-build entity.*

7 *(vi) Any bankruptcy or receivership of any member of the*
8 *design-build entity, including, but not limited to, information*
9 *concerning any work completed by a surety.*

10 *(vii) Any settled adverse claims, disputes, or lawsuits between*
11 *the owner of a public works project and any member of the*
12 *design-build entity during the five years preceding submission of*
13 *a bid under this article, in which the claim, settlement, or*
14 *judgment exceeds fifty thousand dollars (\$50,000). Information*
15 *shall also be provided concerning any work completed by a*
16 *surety during this period.*

17 *(G) In the case of a partnership or any association that is not*
18 *a legal entity, a copy of the agreement creating the partnership*
19 *or association and specifying that all partners or association*
20 *members agree to be fully liable for the performance under the*
21 *design-build contract.*

22 *(H) Acceptable safety record. A bidder's safety record shall be*
23 *deemed acceptable if its experience modification rate for the*
24 *most recent three-year period is an average of 1.00 or less, and*
25 *its average total recordable injury/illness rate and average lost*
26 *work rate for the most recent three-year period does not exceed*
27 *the applicable statistical standards for its business category or if*
28 *the bidder is a party to an alternative dispute resolution system*
29 *as provided for in Section 3201.5 of the Labor Code.*

30 *(2) The information required under this subdivision shall be*
31 *verified under oath by the entity and its members in the manner*
32 *in which civil pleadings in civil actions are verified. Information*
33 *required under this subdivision that is not a public record under*
34 *the California Public Records Act, as described in Chapter 3.5*
35 *(commencing with Section 6250) of Division 7 of Title 1 of the*
36 *Government Code, shall not be open to public inspection.*

37 *(d) The agency shall establish a procedure for final selection*
38 *of the design-build entity in which selection shall be based upon*
39 *a competitive bidding process resulting in lump-sum bids by the*

1 *prequalified design-build entities. Awards shall be made to the*
2 *lowest responsible bidder.*

3 *(e) (1) Notwithstanding any other provision of this code, upon*
4 *issuance of a contract award, the agency shall publicly announce*
5 *its award, identifying the contractor to whom the award is made,*
6 *along with a written decision supporting its contract award and*
7 *stating the basis of the award. The notice of award shall also*
8 *include all prequalified design-build entities.*

9 *(2) The written decision supporting the agency's contract*
10 *award, described in paragraph (1), and the contract file shall*
11 *provide sufficient information to satisfy an external audit.*

12 *20209.27. (a) No firm that is hired or paid by the self-help*
13 *transportation agency to perform pre-bid services may bid or*
14 *join with another company to bid for the design-build contract.*

15 *(b) For purposes of this article, prebid services include*
16 *preliminary engineering studies and another other activities that*
17 *lead to the selection of a project alternative. These activities*
18 *encompass a variety of tasks, including, but not limited to, the*
19 *following activities:*

20 *(1) Project geometric design.*

21 *(2) Earthwork calculations.*

22 *(3) Preparation of cross sections.*

23 *(4) Drainage design.*

24 *(5) Construction staging design.*

25 *20209.28. (a) Any design-build entity that is selected to*
26 *design and build a project under this article shall possess or*
27 *obtain sufficient bonding to cover the contract amount for*
28 *nondesign services, and errors and omission insurance coverage*
29 *sufficient to cover all design, engineering, and architectural*
30 *services provided in the contract. This section does not prohibit a*
31 *general or engineering contractor from being designated the*
32 *lead entity on a design-build project for the purposes of*
33 *purchasing necessary bonding to cover the activities of the*
34 *design-build entity.*

35 *(b) Any payment or performance bond written for the purposes*
36 *of this article shall be written using a bond form developed by*
37 *the Department of General Services under subdivision (i) of*
38 *Section 14661 of the Government Code.*

39 *20209.30. All bids by subcontractors that were not listed by*
40 *the design-build entity in accordance with subparagraph (A) of*

1 paragraph (1) of subdivision (c) of Section 20209.26 shall be
2 considered by the design-build entity in accordance with the
3 design-build process set forth by the self-help transportation
4 agency in the design-build package. All bids by subcontractors
5 bidding on contracts under this article shall be subject to
6 Chapter 4 (commencing with Section 4100) of Part 1 of Division
7 2. The design-build entity shall do both of the following:

8 (a) Provide public notice of the availability of work to be
9 subcontracted in accordance with the publication requirements
10 applicable to the competitive bidding process of the
11 transportation authority.

12 (b) Provide a fixed date and time on which the subcontracted
13 work will be awarded in accordance with the procedure
14 established under this article.

15 20209.32. A deviation from the performance criteria and
16 standards established under subdivision (a) of Section 20209.26
17 may not be authorized except by written consent of the self-help
18 transportation agency.

19 20209.34. (a) A self-help transportation agency shall consult
20 with the department in identifying appropriate design-build
21 demonstration projects to be constructed on the state highway
22 system that are described in this article.

23 (b) The department shall establish the parameters for the
24 extent of the participation of its employees in this demonstration
25 program.

26 (c) The department shall perform the construction inspection
27 for projects constructed under this article, including surveying
28 and testing the materials for each of the projects. All design
29 related documents shall be public records.

30 20209.36. Quality control inspection for the construction of
31 any project utilizing the design-build collaboration approach
32 authorized by this article shall be performed by employees of the
33 department.

34 20209.38. Nothing in this article affects, expands, alters, or
35 limits any rights or remedies otherwise available at law.

36 20209.40. (a) The retention proceeds withheld by a self-help
37 transportation agency from a design-build entity shall not exceed
38 5 percent.

39 (b) The self-help transportation agency shall not withhold
40 retention from payments to a design-build entity for actual costs

1 incurred and billed or design services, construction management
2 services, or where applicable, for completed operations and
3 maintenance services.

4 (c) In a contract between a design-build entity and a
5 subcontractor, and in a contract between a subcontractor and
6 any subcontractor thereunder, the percentage of the retention
7 proceeds withheld may not exceed the percentage specified in the
8 contract between the self-help transportation agency and the
9 design-build entity. If the design-build entity provides written
10 notice to any subcontractor who is not a member of the
11 design-build entity, prior to or at the time that the bid is
12 requested, that a bond may be required and the subcontractor
13 subsequently is unable or refuses to furnish a bond to the
14 design-build entity, then the design-build entity may withhold
15 retention proceeds in excess of the percentage specified in the
16 contract between the self-help transportation agency and the
17 design-build entity from any payment made by the design-build
18 entity to the subcontractor.

19 (d) In accordance with the provisions of applicable state law,
20 the design-build entity may be permitted to substitute securities
21 in lieu of the withholding from progress payments specified in
22 subdivision (b). Substitutions shall be made in accordance with
23 Section 22300.

24 20209.42. Not later than three years after a design-build
25 contract is awarded, the self-help transportation agency shall
26 submit a progress report to the Senate Committee on
27 Transportation and Housing and the Assembly Committee on
28 Transportation. The progress report shall include, but shall not
29 be limited to, all of the following information:

30 (a) A description of the project.

31 (b) The estimated and actual project costs.

32 (c) The design-build entity that was awarded the project.

33 (d) A description of any written protests concerning any
34 aspect of the solicitation, bid, proposal, or award of the
35 design-build project, including, but not limited to, the resolution
36 of the protests.

37 (e) An assessment of the prequalification process and criteria.

38 (f) An assessment of the impact of limiting retention to 5
39 percent on the project, as required under Section 20209.40.

1 (g) A description of the labor force compliance program
2 required under Section 20209.24, and an assessment of the
3 impact on a project where compliance with that program is
4 required.

5 (h) A description of the method used to award the contract. If
6 best value was the method, the factors used to evaluate the bid
7 shall be described, including the weighting of each factor and an
8 assessment of the effectiveness of the methodology.

9 (i) An assessment of the project impact of the “skilled labor
10 force availability” requirement imposed under paragraph (2) of
11 subdivision (b) of Section 20209.26.

12 (j) Recommendations regarding the most appropriate uses for
13 the design-build collaborative approach.

14 20209.44. This article shall remain in effect only until
15 January 1, 2015, and as of that date is repealed, unless a later
16 enacted statute, that is enacted before January 1, 2015, deletes
17 or extends that date.

18 SEC. 2. Section 149.7 is added to the Streets and Highways
19 Code, to read:

20 149.7. (a) (1) Notwithstanding Sections 149 and 30800, and
21 Section 21655.5 of the Vehicle Code, a transportation planning
22 agency, or, in counties with a county transportation commission
23 or authority pursuant to Division 12 (commencing with Section
24 130000) of the Public Utilities Code, a county transportation
25 commission or authority, may conduct, administer, and operate a
26 value pricing program on any state highway corridor in its
27 jurisdiction with a high-occupancy vehicle lane, consistent with
28 this section and Section 21655.6 of the Vehicle Code. As used in
29 this section, “implementing entity” shall mean the transportation
30 planning agency or county transportation commission or
31 authority implementing the value pricing program.

32 (2) The implementing entity, under the circumstances
33 described in subdivision (b), may direct and authorize the entry
34 and use of those high-occupancy vehicle lanes by
35 single-occupant vehicles for a fee. The fee structure shall be
36 established from time to time by the implementing entity. The fee
37 shall be collected in a manner determined by the implementing
38 entity. A high-occupancy vehicle lane may only be operated as a
39 high-occupancy toll (HOT) lane during the hours that the lane is
40 otherwise restricted to use by high-occupancy vehicles.

1 **(b)** *Implementation of the program shall ensure that Level of*
2 *Service C, as measured by the most recent issue of the Highway*
3 *Capacity Manual, as adopted by the Transportation Research*
4 *Board, is maintained at all times in the high-occupancy vehicle*
5 *lanes, except that subject to a written agreement between the*
6 *department and the implementing entity that is based on*
7 *operating conditions of the high-occupancy vehicle lanes, Level*
8 *of Service D shall be permitted on the high-occupancy vehicle*
9 *lanes. If Level of Service D is permitted, the department and the*
10 *implementing entity shall evaluate the impacts of these levels of*
11 *service of the high-occupancy vehicle lanes, and indicate any*
12 *effects on the mixed-flow lanes. Continuance of Level of Service*
13 *D operating conditions shall be subject to the written agreement*
14 *between the department and the implementing entity.*
15 *Unrestricted access to the lanes by high-occupancy vehicles shall*
16 *be available at all times. At least annually, the department shall*
17 *audit the level of service during peak traffic hours and report the*
18 *results of that audit at meetings of the program management*
19 *team.*

20 **(c)** *Single-occupant vehicles that are certified or authorized by*
21 *the authority for entry into, and use of, the high-occupancy*
22 *vehicle lanes are exempt from Section 21655.5 of the Vehicle*
23 *Code, and the driver shall not be in violation of the Vehicle Code*
24 *because of that entry and use.*

25 **(d)** *The implementing entity shall carry out the program in*
26 *cooperation with the department pursuant to a cooperative*
27 *agreement that addresses all matters related to design,*
28 *construction, maintenance, and operation of state highway*
29 *system facilities in connection with the value pricing program.*
30 *With the assistance of the department, the implementing entity*
31 *shall establish appropriate traffic flow guidelines for the purpose*
32 *of ensuring optimal use of the express lanes by high-occupancy*
33 *vehicles without adversely affecting other traffic on the state*
34 *highway system.*

35 **(e) (1)** *Agreements between the implementing entity, the*
36 *department, and the Department of the California Highway*
37 *Patrol shall identify the respective obligations and liabilities of*
38 *those entities and assign them responsibilities relating to the*
39 *program. The agreements entered into pursuant to this section*
40 *shall be consistent with agreements between the department and*

1 the United States Department of Transportation relating to this
2 program. The agreements shall include clear and concise
3 procedures for enforcement by the Department of the California
4 Highway Patrol of laws prohibiting the unauthorized use of the
5 high-occupancy vehicle lanes, which may include the use of
6 video enforcement. The agreements shall provide for
7 reimbursement of state agencies, from revenues generated by the
8 program, federal funds specifically allocated to the authority for
9 the program by the federal government, or other funding sources
10 that are not otherwise available to state agencies for
11 transportation-related projects, for costs incurred in connection
12 with the implementation or operation of the program.

13 (2) The revenues generated by the program shall be available
14 to the implementing entity for the direct expenses related to the
15 operation (including collection and enforcement), maintenance,
16 and administration of the program. The administrative costs of
17 the implementing entity, commission, or authority in the
18 operation of the program shall not exceed 3 percent of the
19 revenues.

20 (3) All remaining revenue generated by the demonstration
21 program shall be allocated pursuant to an expenditure plan
22 adopted biennially by the implementing entity for transportation
23 operations and capital purposes within the program area.

24 (f) Not later than three years after the implementing entity first
25 collects revenues from any project conducted in its jurisdiction
26 pursuant to this section, it shall submit a report to the
27 Legislature on its findings, conclusions, and recommendations
28 concerning the demonstration program. The report shall include
29 an analysis of the effect of the HOT lanes on adjacent mixed-flow
30 lanes and any comments submitted by the department and the
31 Department of the California Highway Patrol regarding
32 operation of the lanes.

33 (g) The authority of an implementing entity to conduct,
34 administer, and operate a value pricing high-occupancy vehicle
35 program on a transportation corridor pursuant to this section
36 shall terminate on that corridor 10 years after the implementing
37 entity first collects revenues from the HOT lane project on that
38 corridor. The implementing entity shall notify the department by
39 letter of the date that revenues are first collected on that
40 corridor.

SEC. 3. The Bureau of State Audits shall conduct a pre-project and post-project audit of each design-build project authorized pursuant to Article 6.9 (commencing with Section 20209.20) of Chapter 1 of Part 3 of Division 2 of the Public Contracts Code and compare them to similar design-bid-build or design sequencing projects and report the results to the Legislature. The bureau's final report shall be delivered to the Legislature after each of the projects has been complete for five years.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~Article 6.9. Transportation Authority Design-Build
Collaboration Contracts~~

~~20209.20. The Legislature finds and declares all of the following:~~

~~(a) It is the intent of the Legislature, in enacting this article, to demonstrate an alternative and optional procedure for bidding on one highway construction project each in the jurisdiction of any transportation authority established in the County of San Diego under Chapter 2 (commencing with Section 132000) of Division 12.7 of the Public Utilities Code, the Santa Clara Valley Transportation Authority established under Part 12 (commencing with Section 100000) of the Public Utilities Code, the Los Angeles County Metropolitan Transportation Authority established under Section 130050.2 of the Public Utilities Code, the Santa Cruz County Regional Transportation Commission established under Title 7.94 (commencing with Section 67940) of the Government Code, and the Transportation Agency of Monterey County established under Title 7.92 (commencing with Section 67920) of the Government Code.~~

~~(b) (1) These transportation authorities should be able to utilize cost-effective options for delivery of highway projects, in~~

1 accordance with the national trend, that includes authorizing
2 public entities to utilize design-build contracts as a project
3 delivery method while collaborating with employees from the
4 Department of Transportation.

5 (2) Utilizing a design-build contract requires a clear
6 understanding of the roles and responsibilities of each participant
7 in the design-build process. The benefits of a design-build
8 contract project delivery system include an accelerated
9 completion of the projects, cost containment, reduction of
10 construction complexity, and reduced exposure to risk for the
11 transportation authority.

12 (3) This collaborative approach toward the design-build
13 project delivery method should be evaluated for the purposes of
14 exploring the potential for reduced project costs, expedited
15 project completion, or design features not achievable through the
16 design-bid-build method.

17 (e) These projects are subject to the existing process under the
18 state transportation improvement program (Chapter 2
19 (commencing with Section 14520) of Part 5.3 of Division 3 of
20 the Government Code) for planning, programming,
21 environmental clearance, and funding. It is the intent of the
22 Legislature that projects that are either identified in this article or
23 ultimately chosen for demonstration of the design-build
24 collaboration project delivery method under this article would
25 comply with all existing requirements under the state
26 transportation improvement program for project development
27 and funding. It is the intent of the Legislature that this article
28 would not confer any type of competitive advantage upon the
29 projects in this article, relative to other projects subject to the
30 state transportation improvement program, during other phases of
31 project development.